

**BROOK & ASSOCIATES, PLLC**  
NEW YORK | NEW JERSEY

BRIAN C. BROOK  
BRIAN@BROOK-LAW.COM

100 CHURCH STREET  
FLOOR 8  
NEW YORK, NY 10007  
TEL: (212) 256-1957

October 12, 2021

**By ECF and Email**

The Honorable Lewis A. Kaplan  
United States Magistrate Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re:** *Daniel Kleeberg et al. v. Lester Eber et al.*, 1:16-cv-09517-LAK-KHP  
**Preliminary Injunction Proposals and Extension of the TRO**

Dear Judge Kaplan,

I write with the knowledge of Messrs. Mulry and Santoro to advise the Court that, despite making some progress, the parties have been unable to agree on all the provisions for a preliminary injunction. Attached to this letter are the two different proposals, along with a redline showing the differences.

The parties respectfully request a conference with the Court to discuss the areas of disagreement. To summarize in advance, without argument, these are the issues that remain in dispute:

1. Whether to carve out an exception for a credit agreement with Eber-CT's lender, without at least requiring notice to Plaintiffs of transactions that would be outside the ordinary course of business?
2. Whether Defendants should be permitted to make "tax distributions" from Eber-CT without notice to Plaintiffs or consent from the Court, when the next estimated tax deadline is not until January 17, 2022?
3. Whether the report of recent transactions (a) should be in the form of a sworn declaration under penalty of perjury, and (b) should include all transactions that would have violated the order if it had been entered earlier, or should be limited to transactions involving shares of stock or membership units?

October 12, 2021

**BROOK & ASSOCIATES**


Page 2

4. Whether the injunction should prohibit any kind of encumbrance outside the ordinary course of business, or if it should be limited to prohibiting grants of security interests and liens?

In the meantime, the parties jointly request that the Court extend the current temporary restraining order by another seven days, until and including October 20, 2021 (or, if a conference cannot be scheduled before then, until and including such other date as the Court sets for ruling on the preliminary injunction).

We thank the Court for its attention to this matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'B.C. Brook', written over a horizontal line.

Brian C. Brook

cc: All counsel of record